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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,795	08/31/2001	Bruno La Fontaine	PJW153	1824

7590

06/11/2003

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EXAMINER

KIM, PETER B

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 06/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,795

Applicant(s)

FONTAINE ET AL.

Examiner

Peter B. Kim

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: .

Art Unit: 2851

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: On page 6, line 17, “172 of the reticle of Figure 7” seems to be a typo since Fig. 7 does not show reference 172.

Appropriate correction is required.

Claim Objections

Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Since “first phase” and “second phase” imply that the two phases are different, claim 4 does not seem to further limit claims 1 and 2. Claim 4 seems to simply repeat the recitation of claim 1.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 1, it is not clear how a set of parallel lines form an outline.

The remaining claims, not specifically mentioned, are rejected for incorporating the defects from the base claim by dependency.

Art Unit: 2851

The following art rejection is made based on the examiner's best understanding of the indefinite claims 1-5.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunner et al. (Brunner) (5,300,786).

Brunner discloses an optical tool (22) comprising a body which is transparent to light (col. 5, lines 5-7), a first plurality of sets of opaque, substantially parallel lines (Fig. 7 and 8, vertical lines), a second plurality of sets of opaque, substantially parallel lines (Fig. 7 and 8, horizontal lines), relative movement between images provided upon relative movement between the object and a lens (col. 5, line 12 – col. 6, line 26); further comprising first and second region in side-by-side relation between an adjacent pair of lines which are a part of the first and second sets of lines, the first region providing transmission of light at a first phase and the second region providing transmission at a second phase (Fig. 7, col. 8, lines 22-37). Brunner also discloses the plurality of lines that form first and second outline in wherein the second outline is positioned within the first outline (Fig. 8).

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Barr et al. (5,756,238).

Art Unit: 2851

Barr discloses an optical tool (16) comprising a body which is transparent to light (col. 5, lines 40-62), a first plurality of sets of opaque, substantially parallel lines (Fig. 2, vertical lines), a second plurality of sets of opaque, substantially parallel lines (Fig. 2, horizontal lines), relative movement between images provided upon relative movement between the object and a lens (col. 4, line 55 – col. 5, line 20); further comprising first and second region in side-by-side relation between an adjacent pair of lines which are a part of the first and second sets of lines, the first region providing transmission of light at a first phase and the second region providing transmission at a second phase (Fig. 2, col. 5, lines 40-62). Barr also discloses the plurality of lines that form first and second outline in wherein the second outline is positioned within the first outline (Fig. 2).

Allowable Subject Matter

Claims 6-15 are allowed.

None of the prior art of record teaches or discloses an optical tool comprising a tool body which is transparent to light; first, second, third and fourth sets of pluralities of opaque lines forming a first outline, fifth, sixth, seventh and eighth sets of pluralities of opaque lines forming a second outline, the lines of each set being substantially parallel; relative movement between images formed by the first and second outlines being provided upon relative movement between the object and a lens through which images are formed upon the object; further comprising first and second regions of the tool body in side-by-side relation between each adjacent pair of lines, the first region providing transmission of light there through at a first phase, the second region providing transmission of light at a second phase.

Art Unit: 2851

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Kim whose telephone number is (703) 305-0105. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams, can be reached on (703) 308-2847. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Peter B. Kim
Patent Examiner
June 4, 2003